

TALIS J. COLBERG
ATTORNEY GENERAL

Stephanie Galbraith Moore
Assistant Attorney General
Office of the Attorney General
1031 W. 4th Ave., Suite 200
Anchorage, Alaska 99501
(907) 269-5190

Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

RALPH KERMIT WINTERROWD, 2ND

Plaintiff,

vs.

BRAD L. NELSON, ET AL.,

Defendants.

Case No.: 3:02-cv-00097-JKS

AFFIDAVIT OF COUNSEL

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

)
) ss:
)

1. I am counsel assigned to defend the above captioned matter and have knowledge of the information contained herein.

2. On July 28, 2008, Mr. Winterrowd served the attached discovery requests and notices of deposition.

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
1031 W. FOURTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-5100

Exhibit

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3 3. The deposition notices indicate Mr. Winterrowd's intention to take the
4 deposition of Brad Nelson at 8:30 a.m. on August 14, the deposition of John Cyr at 1:00
5 p.m. on August 14, the deposition of Robert Baty at 8:30 a.m. on August 15, and the
6 deposition of Dennis Casanovas at 1:00 p.m. on August 15.

7 4. These dates were not discussed with me prior to service of the notices.

8
9 5. Both the paralegal assigned to assist me in this case and I have been in trial
10 for the past week in another matter and were heavily involved in preparing for that trial
11 when Mr. Winterrowd served his notices. I have been extremely busy for most of this
12 summer with depositions and discovery in another large and very complex case that
13 involves allegations spanning an eighteen year period that is set for trial in November.

14 6. Because of the press of these other matters, including a scheduling conflict, I
15 am not available for the depositions of Nelson, Cyr, Baty, and Casanovas on the dates
16 selected by Mr. Winterrowd.

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18 7. My paralegal, Patricia Anderson, has also contacted or attempted to contact
19 Brad Nelson, John Cyr, Robert Baty, and Dennis Casanovas. I am informed that Trooper
20 Nelson is on the North Slope for the next two weeks and unavailable on August 14.
21 Trooper Cyr is out-of-state for military training and unavailable on August 14. Trooper
22 Baty is retired and Ms. Anderson has not been able to reach him concerning his availability.
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2 Captain Casanovas has other work duties scheduled for August 15 and is not available on
3 that date. Notably Captain Casanovas has also been dismissed from this case and is no
4 longer a party.
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6 8. All discovery in this case was required to be completed by July 28, 2008
7 under the Court's pre-trial order. This date was an extension from the original discovery
8 close date which was in March 2008. The extension was requested by Mr. Winterrowd and
9 unopposed by me. In that period I deposed Mr. Winterrowd and his ex-wife, Kimberly
10 Fitzgerald. Mr. Winterrowd attended Ms. Fitzgerald's deposition. In that time I did not
11 receive any discovery requests from Mr. Winterrowd.
12

13 9. Much of the discovery that Mr. Winterrowd seeks has already been provided
14 to him or it has been explained to him that the documentation he seeks no longer exists.
15 However, in this last round of discovery he has also served 42 requests for admission on
16 each defendant and Captain Casanovas, who is no longer a party in this action. In addition
17 to these requests for admission he asks in the interrogatory section for a legal and factual
18 explanation for each denial of these requests for admission. These requests are burdensome
19 and have been filed outside the discovery deadlines set by the court.
20

21 10. On August 11, 2008, I spoke with Mr. Winterrowd and explained the State's
22 position concerning his untimely discovery requests and deposition notices. Mr.
23

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2 Winterrowd indicated he disagreed and wished to go forward with the discovery and
3 depositions as requested.
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6 
7 Stephanie Galbraith Moore

8 SUBSCRIBED AND SWORN to before me this 12th day of August, 2008.
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Heather R. Hedden
NOTARY PUBLIC FOR ALASKA
My Commission Expires: W/ office

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ANCHORAGE, ALASKA 99501
PHONE: (907) 269-5100